

SUPPLEMENTAL DECLARATION FOR PATENT APPLICATION
English Language Declaration

As a below-named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

Neither the patent underlying the present reissue application, U.S. 5,819,950, nor the present application, is assigned to any entity.

I believe that I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled: PORTABLE TROMMEL

the specification of which

 X was filed on October 12, 2000 as U.S. Patent Application Serial No. 09/687,828 and was amended on January 8, 2004, October 21, 2004, May 24, 2005, September 29, 2005, July 31, 2006, and April 6, 2007.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56, including, for continuation-in-part applications, material information that became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I believe original U.S. Patent No. 5,819,950 (the '950 patent) to be partly inoperative or invalid by reason of claiming more and less than I had the right to claim in the patent.

With respect to the present reissue application, I have reviewed the Office action dated December 6, 2006, and it is my understanding that the examiner rejected claim 1 of the '950 patent as being obvious over the prior art, but indicated (a) that claim 5 of the '950 patent (which depends from claim 2, which in turn depends from claim 1) is allowable, and (b) that claim 6 of the '950 patent (which depends from claim 5) is also allowable. I disagree with the examiner's rejection of claim 1 of the '950 patent. However, I am aware of the manufacture and sale of a product that I believe infringes the subject matter of at least claim 5 of the '950 patent, and would like to expedite re-issuance of the '950 patent so that I can enforce my patent rights.

As such, claim 1 of the '950 patent has been amended to incorporate all the elements of claim 5 of the '950 patent, and claim 6 of the '950 patent has been amended to correct its dependency from claim 5 to claim 1. Amended claim 1, as presented in this reissue application, is therefore identical in scope to claim 5 as it was originally issued in the '950 patent. Likewise, amended claim 6, as presented in this reissue application, is identical in scope to claim 6 as it was originally issued in the '950 patent. Claims 3-4 and 7-22 as presented in this reissue application, all depend from amended claim 1, and therefore have been amended in at least the same manner

as claim 1. Other claims have been cancelled without prejudice.

At least one error being relied upon to support the present reissue application is the examiner's conclusion that I claimed more than I had a right to claim in the '950 patent, in accordance with the examiner's December 6, 2006 prior art rejection of the subject matter of claim 1 of the '950 patent as being obvious over the prior art. Because I disagree with the examiner's conclusion, this is not an admission that the subject matter of claim 1 of the '950 patent, as originally allowed, is obvious. I reserve the right to pursue, in a continuation reissue application, any claims that are the same as, or are broader and/or narrower than, any claims that (a) originally issued in the '950 patent, or (b) were presented during prosecution of the present reissue application.

As indicated above, I also believe that the '950 patent is partly inoperative or invalid by reason of claiming less than I had the right to claim in the patent. Although the claims currently pending in the present reissue application are not broader than the claims of the '950 patent, I have reserved the right to pursue broader claims in a continuation reissue application. If I choose to do so, I will provide a declaration that includes a statement of error indicating why I am entitled to those broader claims. Because such a statement of error does not apply to the claims of the present reissue application, I have not provided it at this time.

These statements of error are not intended to identify all such errors, but are intended to state at least one error being relied upon as the basis for reissue.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or (f) or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application that designated at least one country other than the United States of America, listed below, and also have identified below any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed?	Certified Copy Attached?

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false

statements may jeopardize the validity of the application or any patent issuing thereon. All errors in the patent which was corrected in the present reissue application, and is not covered by the prior declaration submitted in this application, arose without any deceptive intention on the part of the applicant. Corrections of errors made in all previous papers filed in this reissue application, or errors corrected by a paper filed with this oath/declaration, were made without deceptive intent on the part of the applicant."

Full name of sole or first joint inventor: James Paschal McCloskey

Inventor's signature: 
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